

UNITED STATES OF AMERICA
UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

GARY MARCHBANKS,)
)
Petitioner,) Case No. 1:05-cv-859
)
v.) Honorable Wendell A. Miles
)
KURT JONES,)
)
Respondent.)
_____)

JUDGMENT

In accordance with the Opinion entered this day:

IT IS ORDERED that Petitioner's amended application for habeas corpus relief be DISMISSED without prejudice pursuant to Rule 4 of the Rules Governing § 2254 Cases for lack of exhaustion of available state-court remedies.

IT IS FURTHER ORDERED that a certificate of appealability is DENIED because a reasonable jurist could not conclude either that the district court erred in dismissing the petition for failure to exhaust or that the petitioner should be allowed to proceed further. *Slack v. McDaniel*, 529 U.S. 473, 484 (2000).

Dated: April 11, 2006

/s/ Wendell A. Miles
Wendell A. Miles
Senior U.S. District Judge